REMARKS

Introductory Comments

Claims 11-14 were examined in the Office Action dated December 15, 2005 and stand variously rejected under (1) the judicially created doctrine of obviousness-type double patenting (claim 11); (2) 35 U.S.C. §112, second paragraph (claims 11-14); and (3) 35 U.S.C. §102(b) (claim 11). These rejections are believed to be overcome and are otherwise traversed for the reasons discussed below.

Overview of the Above Amendments

The specification has been amended to update the status of the priority applications and indicate trademarks by capital letters, as requested by the Examiner.

Claims 11-14 have been amended to claim the subject invention with greater particularity. Claim 11 has been amended recite that the antibody is "immunologically reactive with an N-acyl-substituted *Neisseria meningitidis* serogroup B capsular polysaccharide" and that the antibody is not autoreactive "with *Neisseria meningitidis* serogroup B capsular polysaccharide as determined by measuring the ability of said antibody to react with human neuroblastoma cell line CHP-134." Moreover, claim 11 has been amended to recite that a "library" of molecules is provided and that the method is for "identifying" a molecular mimetic. The dependent claims have been amended to track the language of amended claim 11.

Support for these recitations may be found throughout the specification at, e.g., pages 10-11, bridging paragraph; page 14, lines 4-14; page 26, lines 21-25; and pages 64-65, bridging paragraph.

The Double Patenting Rejection:

Claim 11 was provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claim 35 of copending U.S. Application Serial No. 10/212,456. Applicants note the rejection is provisional as neither of the allegedly conflicting claims has in fact been patented. Accordingly, applicants request the double patenting rejection be held in

abeyance until claims are allowed in one or both of the applications. Applicants will then consider the propriety of filing a Terminal Disclaimer.

Rejections Under 35 U.S.C. §112, Second Paragraph:

The claims were rejected as indefinite under 35 U.S.C. §112, second paragraph. In particular, the Office requested applicants correct a typographical error in claim 11. Applicants have now changed the term "complexes" to "complex." Thus, this basis for rejection has been overcome. The Office also requested clarification with respect to the terms "autoreactive" and "derivative." As explained above, claim 11 has been amended to recite that autoreactivity is determined by measuring the ability of the antibody to react with human neuroblastoma cell line CHP-134. Thus, the term is believed to be sufficiently clear. Additionally, the term "derivative" has been deleted from claim 11 and the claim now recites that the antibody is directed against "an N-acyl-substituted *Neisseria meningitidis* serogroup B capsular polysaccharide." The Office also requested clarification regarding the phrase "antibody directed against." This phrase no longer appears in the claims. Finally, the Office requested clarification regarding the term "isolating" in the preamble of claim 11. This term has now been replaced with the term "identifying" in the preamble and the last clause of the claim now relates back to the preamble.

Based on the foregoing, withdrawal of the rejections under 35 U.S.C. §112, second paragraph is respectfully requested.

Rejection Under 35 U.S.C. §102(b):

Claim 11 was rejected under 35 U.S.C. §102(b), as anticipated by Jennings et al., *J. Exp. Med.* (1987) 165:1207-1211 ("Jennings"). Jennings is said to teach a method of providing an N-propionylated MenB molecule and contacting the molecule with antibodies that purportedly do not cross-react with the native capsular polysaccharide. The N-propionylated MenB molecule is alleged to serve as a mimic of a unique epitope of MenB. The Office alleges the lack of autoreactivity of the Jennings antibodies is "inherent" in light of the knowledge in the art and cites U.S. Patent No. 6,638,513 to Seid as evidencing such. However, applicants respectfully

disagree that Jennings anticipates the claimed invention.

The law is clear that in order to anticipate a claim, a single source must contain all of the elements of the claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 231 USPQ 81, 90 (Fed. Cir. 1986); *Atlas Powder Co. v. E. I. du Pont De Nemours & Co.*, 224 USPQ 409, 411 (Fed. Cir. 1984). Moreover, the single source must disclose all of the claimed elements "arranged as in the claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *Connell v. Sears Roebuck & Co.*, 220 USPQ 193, 198 (Fed. Cir. 1983). Finally, the law requires identity between the claimed invention and the prior art disclosure. *Kalman v. Kimberly-Clar Corp.* 218 USPQ 2d 781, 789 (Fed. Cir. 1983, cert. denied, 465 U.S. 1026 (1984)). Based on these tenets, Jennings fails to anticipate the present claims.

In particular, Jennings uses his N-propionylated MenB conjugate to produce antibodies in mice and then tests the antibodies produced for bactericidal activity. Jennings does not screen a library of molecules to identify molecular mimetics as claimed by applicants. Accordingly, Jennings does not anticipate the present claims and withdrawal of this basis for rejection is respectfully requested.

CONCLUSION

Applicant respectfully submits that the claims define a patentable invention. Accordingly, a Notice of Allowance is believed in order and is respectfully requested.

Please direct all further communications in this application to:

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